IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1202 of 2005

Between:

APSRTC, rep. by its Managing Director, Musheerabad, Hyderabad.

..... PETITIONER

AND

1 The State Transport Appellate Tribunal, Manoranjan Complex, M.J. Road, Nampally, A.P., Hyderabad - 500 001, rep. by its Presideing Officer.
2 The Joint transport Commissioner and Secretary- State Transport Authority, A.P., Hyderabad.
3 Sri P.A. Sreenath, S/o. Sri P. Amaranath,
13-169, B.K. Street, Palamaner, Chittoor -517408, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue an appropriate writ, order or direction, especially in the nature of writ of certiorari, calling for the records relating to the impugned order dt. 31.12.2004 made in M.P.No.316/2004 in A.P.No.147/2004 on the file of the State Transport Appellate Tribunal, A.P., Hyderabad in allowing the M.P.No.316/2004 and directing the 3rd respondent herein to ply his vehicle bearing No. AP 3U 2288 on the inter-state route Chittoor to Rayalapadu not withstanding the expiry of his pucca stage carriage permit No.29/49B and quash the same as being illegal, without jurisdiction and invalid, as being hit by the provisions of section 104 of M.V. Act, 1988. .

Counsel for the Petitioner: MR.KALLAKURI SRINIVASARAO

Counsel for the Respondents 1 and 2 : GP FOR TRANSPORT

Counsel for the Respondent No.3: Mr. T. Venkataramana

The Court at the admission stage made the following :

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 1202 of 2005

O R D E R:

This writ petition is filed challenging the order dated 31.12.2004 made in M.P. No. 316 of 2004 in A.P. No. 147 of 2004 on the file of the State Transport Appellate Tribunal, Hyderabad.

A miscellaneous petition was filed by the 3rd respondent herein before the State Transport Appellate Tribunal, Hyderabad with a prayer to allow him to run his bus on the inter-state route Chittoor to Rayalpadu via Palamaner, Punganur and Madanapalli notwithstanding the expiry of his pucca stage carriage permit issued on 31.12.2004 pending disposal of the appeal. After hearing both sides, the learned Presiding Officer allowed the petition directing the Joint Transport Commissioner to allow him to ply the vehicle on the inter-state route as prayed for notwithstanding the expiry of his pucca stage carriage permit subject to production of valid documents. The said order is under challenge by the petitioner herein.

Learned counsel for the petitioner vehemently contended that this court in W.P. 27142 of 2002 dated 12.9.2003 directed renewal of permits in favour of respondents 3 to 27 in the said writ petition and the mother of the 3rd respondent herein is 10th respondent therein and therefore the Tribunal ought not to have granted interim direction as prayed for. Though the original permit stands in the name of R-10, but subsequently the said permit has been transferred in the name of the petitioner and hence the issue involved in this case is not to renew the permit and it is irrelevant at whose name the permit stands.

On the other hand, learned counsel for the respondent No.3 contended that the permit cannot be granted without the name of any person and long prior to passing of the suspension order passed by this court the permit standing in the name of 10th respondent has been transferred in favour of the petitioner. Therefore, no suspension order is passed by this court insofar as this petitioner is concerned with regard to renewal and that is the reason why the Tribunal directed the official respondents to grant permit and the order under challenge does not suffer from any legal infirmities so as to call for infirmities.

There cannot be any dispute that a writ of Ceriorari can be issued for correcting the jurisdictional errors committed by the inferior courts or tribunals in cases where the orders passed by the tribunals are without jurisdiction or in not exercising the jurisdiction vested with in it or failure in exercise of jurisdiction. A writ can similarly be issued where in exercise of the power conferred the courts or tribunals act illegally or improperly, that is to say, without following the proper procedure or the procedure adopted is opposed to principles of natural justice. It is also equally well settled that an error of law which is apparent on the face of the record can be corrected by a writ but not an error of fact, however grave it may appear to be.

The 1st respondent rejected the application of the petitioner for renewal of his permit bearing No. 11/51(B) and 5/53(B) vide proceedings dated 25.11.2004 in R.No.848/B1/2004. Challenging the same, the 3rd respondent herein filed an appeal before the Transport Appellate Tribunal, Hyderabad wherein a miscellaneous petition is filed. The permit stands now in the name of the 3rd respondent, which was valid till 31.12.2004. For renewal of the said permit the application of the 3rd respondent was rejected by the 1st respondent on the ground that this court in W.P.M.P. 27142 of 2002 in W.P. 21663 of 2002 suspended the renewals of permits. Admittedly the 3rd respondent is not a party to the proceedings in W.P.21663 of 2002 and also WPMP 27142 of 2002. It is a fact that

the mother of the petitioner by name P. Padmavathamma is a party to the said writ petition. If the transfer of the permit is made after the interim orders passed by this court it can be inferred that to get over the interim order permit has been transferred, but here is a case where the permit has been transferred in the name of 3rd respondent as on 31.10.2001 i.e. long prior to the interim orders passed by this court on 12.9.2003 i.e. nearly two years prior to passing of the interim orders. Since the 3rd respondent is not a party to the writ petition and also to the interim orders passed by this court, he is not bound by the orders, unless it is shown that renewal of permit is contrary to the provisions of the Motor Vehicles Act. But the sole ground on which the 1st respondent refused permit to the 3rd respondent is in view of the orders passed by this court not to renew the permit but not contrary to the provisions of the Motor Vehicles Act. Sub-Section (2) of Section 214 of the Motor Vehicles Act reads as follows:

> "Notwithstanding anything contained in Sub-Section (1), if an application made by a person for the renewal of permit has been rejected by the Original Authority and such person has preferred an appeal or made an application for revision under this Act against such rejection, the appellate authority or, as the case may be, the revisional authority may by order direct that the permit shall, notwithstanding the expiration of the term specified therein, continue to be valid until the appeal or application for revision is disposed of".

The above provision is very clear that during the pendency of the appeal the appellate tribunal can direct that the permit shall be continued to be valid until disposal of the appeal or application for revision. Basing on the said provision, the Tribunal has passed the impugned proceedings and the same is not shown to have been passed without any jurisdiction or no error of law is brought to the notice of this court that the order is passed contrary to

the provisions of the Act.

The learned counsel for the petitioner contended that the permit as defined under the Act would mean a permit issued by the State or Regional Transport Authority or the authority authorized on behalf of them under the Act, but the person in whose name the permit has been issued has no significance and the permit issued by the competent authority has to be taken into consideration and such is the case, in view of the interim orders passed by this court the learned Presiding Officer ought not to have directed the 1st respondent to issue directions as prayed by the 3rd respondent herein. This court is unable to accept the said contention because without mentioning the name of the person in the permit a permit cannot be issued. A renewal of permit has to be made by a person in whose name the permit stands and without naming the person there cannot be a permit in the vacuum. The order passed by this court in WPMP 27142 of 2002 dated 12.9.2003 does not come in the way of renewing the permit insofar as 3rd respondent is concerned since the 3rd respondent is not a party to the above said writ proceedings. The argument that since the mother of the petitioner is a party to the proceedings the same binds the 3rd respondent cannot be accepted. It is wholly devoid of merit and untenable.

The order under challenge does not suffer from any incurable legal infirmities so as to call for interference by this court. The writ petition is devoid of merit and it is dismissed at the stage of admission.

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K.C. Bhanu, J.

Date: --02—2005.

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Presideing Officer, State Transport Appellate Tribunal, Manoranjan Complex, M.J. Road, Nampally, A.P., Hyderabad - 500 001.
2 The Joint transport Commissioner and Secretary- State Transport Authority, A.P., Hyderabad.
3 Sri P.A. Sreenath, S/o. Sri P. Amaranath,
13-169, B.K. Street, Palamaner, Chittoor -517408, Chittoor District.

4. 2 C.Cs. to Government Pleader for Transport, High Court Buildings, Hyderabad (OUT).

5. 2 CD copies.